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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1960.

No. 200.

TRAYTON L. LATHROP,
Appellant,

vs.

JOSEPH D. DONOHUE,
Appellee.

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF WISCONSIN.

BRIEF OF THE STATE OF MISSOURI, AMICUS CURIAE,

By Its Attorney General.

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INTEREST OF THE STATE OF MISSOURI.

The appellant in this case attacks the validity, under the Fourteenth Amendment to the Constitution of the United States, of the order of the Supreme Court of Wisconsin integrating the bar of that state.

The bar of the State of Missouri has been integrated pursuant to the Rules of the Supreme Court of Missouri. The first step towards integration of the Missouri bar was undertaken by the Supreme Court of Missouri in 1934 by the adoption of rules covering admissions to the bar, prescribing a code of ethics for Missouri lawyers, establishing machinery for the handling of complaints and disciplinary actions against Missouri lawyers, and establishing a judicial council. These rules further provided for the enrollment of all the attorneys in the state and the payment of an annual enrollment fee by each attorney in order to provide funds for carrying out the rules.[1]

On June 16, 1944, the Missouri Supreme Court promulgated Rule 40, for the organization of the Missouri Bar, whereby an wholly integrated bar was established.[2]

The integration of the Missouri Bar preceded by a short time the adoption, on February 27, 1945, by the people of the State of Missouri, of a new Constitution for the government of the state. That instrument recognized the authority of the Supreme Court of Missouri to establish rules of procedure for the courts of the state.[3] Pursuant to such authority, the Supreme Court of Missouri has promulgated rules of criminal procedure,[4] rules of civil procedure[5] and rules of procedure for traffic courts[6] of the state. All of such rules are designed to promote the administration of justice in Missouri.

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1. Rules 35 to 39, 335 Mo. vii-xx

2. 352 Mo. xxxi-xxxvi.

3. §5, Art. V, Const. of Mo. 1945.

4. Rules 21 to 36, 1 Vernon's Annotated Mo. Rules, pp. 115-294.

5. Rules 41 to 102, Vols. 2 and 3, Vernon's Annotated Mo. Rules.

6. Rule 37, 1 Vernon's Annotated Mo. Rules, pp. 305-381.

Although such rules have been prepared by the Supreme Court and by committees appointed by that body, the integrated Missouri Bar has contributed greatly to the advances which such rules represent. Prior to the adoption of the rules, the proposed rules were subjects of state-wide discussion meetings held under the auspices of the Missouri Bar. The publication of the Missouri Bar served as a forum for the presentation of different views on various matters covered by the rules.[7] Upon the adoption of the rules by the Supreme Court, the Missouri Bar sponsored a number of institutes throughout the state in order to familiarize the bar with such new rules.

The fact that Missouri had an integrated bar with adequate financial resources derived from the entire bar of the state placed the bar in a position to assist and contribute in large measure to the objective of improving the administration of justice through modern methods of practice and procedure.

The activity of the Missouri Bar in this area is an example of the body's efforts to further the interests, not of the bar alone, but of the entire State of Missouri. Because of the contributions which the Missouri Bar has made and will continue to make to the general welfare of the state, the State of Missouri is directly interested in sustaining the validity of the present organization of the Missouri Bar. Should this Court sustain the contentions of the appellant in this case, the present organization of the Missouri Bar would be seriously threatened. The State of Missouri believes that the judgment of the Su-

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7. Richardson, Should the Scope of Pre-Trial Discovery be Expanded? 14 Jour. Mo. Bar 8 (Jan 1958); 14 Jour. Mo. Bar 118 (April, 1958).

Hocker, Should the Scope of Pre-Trial Discovery be Expanded? 14 Jour. Mo. Bar 44 (Feb., 1958).

preme Court of the State of Wisconsin in this cause is correct and should be affirmed. To that end, this brief, *amicus curiae*, is submitted by the State of Missouri in support of the position of the appellee in this cause.

ARGUMENT.

On behalf of *amicus curiae*, it is respectfully submitted to the Court that the brief for the appellee in this cause completely and fully supports the decision of the Supreme Court of Wisconsin and fully answers all attacks by the appellant herein on such decision. *Amicus curiae* respectfully joins in and supports the brief and argument of the appellee in this cause and respectfully submits that if this Court accepts jurisdiction of this cause, the decision of the Supreme Court of Wisconsin should, for the reasons set out in the brief of appellee herein, be affirmed.

Respectfully submitted,

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